

REMARKS

The Examiner has required restriction in the above-identified application as follows:

- I. Claims 3-11, and 23, drawn to method(s) of treating staphylococcal infection; and
- II. Claims 18-22 and 24-28, drawn to method(s) of enhancing the effectiveness of lysostaphin.

Contrary to the characterization of Applicants' invention in the Restriction Requirement, all pending claims are drawn to in vivo methods of treatment involving both an anti-staphylococcal agent and an antibiotic with activity mediated by cell wall activity. The are all drawn to in vivo methods of treatment having the same function and effect.

Claim 18 as amended, and Claims 23 and 24, the remaining independent claims, are listed below in order to visually emphasize the parallel elements which run through all the pending claims.

CLAIM 18

18. (Amended) A method of enhancing the effectiveness of lysostaphin as a bacteriocin in a method of treatment by suppressing formation of staphylococcal strains resistant thereto, comprising combining an amount of **lysostaphin** independently effective in therapeutically treating a staphylococcal infection in a mammal with an amount of **a cell-wall active antibiotic** sufficient to treat, independently, a staphylococcal infection in a mammal, wherein both the lysostaphin and the cell-wall active antibiotic are present in amounts which, when co-administered, suppress the formation of staphylococcal strains resistant to the lysostaphin, the cell-wall active antibiotic and combinations of lysostaphin and the cell-wall active antibiotic.

CLAIM 23

23. (Not Amended) A method of treating a staphylococcal infection in a mammal while suppressing the formation of antibiotic-resistant staphylococcal strains, said method comprising simultaneously administering **lysostaphin** and **a cell-wall active antibiotic**, wherein the lysostaphin is present in an amount effective in treating, in a mammal, a staphylococcal infection that is not lysostaphin-resistant and wherein the cell-wall active antibiotic is present in an amount effective in treating, in a mammal, a staphylococcal infection that is not resistant to the cell-wall active antibiotic.

CLAIM 24

24. (Not Amended) A method of treating a staphylococcal infection in a mammal while suppressing the formation of antibiotic-resistant staphylococcal strains, comprising simultaneously administering **an anti-staphylococcal agent** other than a cell-wall active antibiotic **and a cell-wall active antibiotic**, wherein the anti-staphylococcal agent is present in an amount effective in treating, in a mammal, a staphylococcal infection that is not resistant to said anti-staphylococcal agent and wherein the cell-wall active antibiotic is present in an amount effective in treating, in a mammal, a staphylococcal infection that is not resistant to the cell-wall active antibiotic, and wherein the anti-staphylococcal agent and the cell-wall active antibiotic are co-administered such that said anti-staphylococcal agent and said cell-wall active antibiotic, when co-administered, suppress the formation of staphylococcal strains resistant to said anti-staphylococcal agent, said cell-wall active antibiotic and combinations of said anti-staphylococcal agent and said cell-wall active antibiotic.

As indicated by the highlighted portions above, the elements noted above run through all the claims. In addition, the characterization of Claim 18 as being drawn to an *in vitro* method is incorrect. The methods are all drawn to an *in vivo* application of these two claim designated elements and do in fact have the same function and effect.

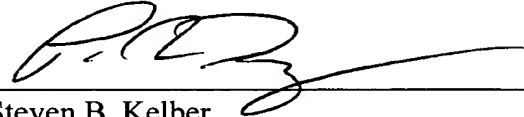
Applicants respectfully submit that examination of all currently pending claims would not pose an undue burden on the Examiner. Section 803 of The Manual of Patent Examining Procedure states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicants therefore respectfully request examination of all currently pending claims.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited. Should the Examiner have any suggestions to place the application in even better condition for allowance, Applicants request

that the Examiner contact the undersigned representative at the telephone number listed below.

Respectfully submitted,

PIPER, RUDNICK LLP

A handwritten signature in black ink, appearing to read 'S. Kelber', is written over a horizontal line.

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MARKED-UP COPY OF AMENDED CLAIMS

18. (Amended) A method of enhancing the effectiveness of lysostaphin as a bacteriocin in a method of treatment by suppressing formation of staphylococcal strains resistant thereto, comprising combining an amount of lysostaphin independently effective in therapeutically treating a staphylococcal infection in a mammal with an amount of a cell-wall active antibiotic sufficient to treat, independently, a staphylococcal infection in a mammal, wherein both the lysostaphin and the cell-wall active antibiotic are present in amounts which, when co-administered, suppress the formation of staphylococcal strains resistant to the lysostaphin, the cell-wall active antibiotic and combinations of lysostaphin and the cell-wall active antibiotic.